IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 17224 of 2004

Between:
Sri Dara Ramanarasimham S/o Daivadeenam
R/o Kothagudem Town & mandal Khammam district
..... PETITIONER

AND

1 The State Government of Andhra Pradesh rep by Secretary Forest Department Affairs
2 The Divisional Forest Officer, Kothagudem, Khammam District
3 Conservator of Forests, Khammam Circle, Khammam
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction in the nature of a Writ declaring the impugned order of the 2nd respondent in Rc.No.5595/02/S2/dt 16-12-2003 as highly illegal, irregular, arbitrary improper, unjust and violative of principles of natural justice and further direct the respondent to pay the compensation or reimburse the amount paid by the petitioner for sale of usufruct in Mango and cashew garden in Plot No.I, III to IX in Sy. NO. 17 Laxmidevipally Reserve Forest Block Chatakonda, Kothagudem, Khammam District fort he season of 2003.

Counsel for the Petitioner: MR.J.V.PRASAD

Counsel for Respondents: GP FOR FORESTS

The Court at the admission stage made the following :

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Forests for respondents. Both have no objection for disposal of the writ petition at the admission stage.

Admittedly, the petitioner participated in the sale of usufruct of Cashew and Mango in Plot No.1, 3 to 9 in Sy.No.17 Laxmidevipally Reserve Forest Block, Chatakonda, Khammam District for 2003 season, and on payment of sale value of Rs.1,25,000/- the possession of the lands was handed over to him. It is stated that since during the summer season due to high temperature the trees were burnt and ground water also dried he suffered heavy loss, as the garden did not yield anything. On such loss the petitioner made a representation dated 17-5-2003 to the Divisional Forest Officer, the second respondent herein, for refund of sale consideration paid by him, which was rejected by the second respondent by the impugned proceedings dated 16-12-2003. In view of the same, the petitioner filed the present writ petition for issuance of a Writ of Mandamus declaring the impugned order of the second respondent dated 16-12-2003 as arbitrary and illegal and for a direction to the respondents to pay the compensation or reimburse the amount paid by him for the

sale of usufruct in Mango and Cashew garden.

It is not in dispute that the said sale was conducted by the forest officials after following the due procedure contemplated under the provisions of the Andhra Pradesh Forest Contract (Disposal of Forest Produce) Rules, 1977 (for short 'the Rules') and on confirmation of bid, sale amount was deposited by the petitioner.

Rule 28 of the Rules reads as under:

> Rule 28: Government indemnified against natural calamities and acts of third parties:- The forest contractor shall not be entitled to any compensation whatsoever, if any loss that may be sustained by reason of fire, tempest, disease, pest, flood, drought or other natural calamity or by reason of any wrongful act committed by third party or by reason of unsoundness or breakage or loss of utility in the forest produce purchased under the contract.

On a reading of the above Rule it is evident that the forest contractor shall not be entitled for payment of any compensation for the loss sustained by the contractor by reason of fire, tempest, disease, pest, flood, drought or other natural calamity or by reason of any wrongful act committed by any third party or by reason of unsoundness or breakage or loss of utility of any forest produce purchased under the contract. In view of the statutory bar for grant of compensation, the representation filed by the petitioner was rejected by the Divisional Forest Officer. Under Rule 33 of Rules, on every order passed by the Divisional Forest Officer with respect to any forest contractor, the aggrieved may prefer an appeal to the concerned Conservator of Forests within a period of 30 days from the date of receipt of the said order. In view of the same the order passed by the Divisional Forest Officer does not suffer any incurable legal infirmity warranting

interference of this court to exercise the extraordinary jurisdiction under Article 226 of the Constitution of India. The petitioner as a farmer, if entitled to any compensation, it is always open for him to move the Government for appropriate relief.

Accordingly, the Writ Petition is dismissed at the admission stage.

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A. Gopal Reddy, J.

24th September, 2004.
Js.

ASSISTANT REGISTRAR

To
1 The Secretary, Government of Andhra Pradesh,
Forest Department Affairs.
2 The Divisional Forest Officer, Kothagudem, Khammam District.
3 Conservator of Forests, Khammam Circle, Khammam
4 2 CCs to G.P. for Forests, High Court Buildings, Hyderabad.
5 2 CD copies.